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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92053336
Party	Defendant J.B. Custom, Inc.
Correspondence Address	JEREMY N GAYED BARRETT & MCNAGNY LLP 215 E BERRY ST FORT WAYNE, IN 46802 UNITED STATES jng@barrettlaw.com, tkm@barrettlaw.com, jlm@barrettlaw.com
Submission	Reply in Support of Motion
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Date	06/20/2011
Attachments	Reply in Support of Motion to Suspend JB Custom v Braztech.pdf ( 3 pages ) (16095 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

IN THE MATTER OF TRADEMARK REG. NO. 3,645,700

Filed: April 17, 2008

Registration Date: June 30, 2009

Braztech International, L.C. )

)

Petitioner, )

)

v. )

)

Cancellation No. 92053336

J.B. Custom, Inc. )

)

Registrant. )

**REPLY IN SUPPORT OF MOTION TO SUSPEND CANCELLATION  
PROCEEDINGS**

Commissioner for Trademarks

Box TTAB FEE

P.O. Box 1451

Alexandria, VA 22313-1451

COMES NOW Registrant J.B. Custom Inc., (“JB”), by counsel, and, pursuant to Trademark Rule of Practice 2.117(a), Trademark Trial and 37 C.F.R. § 2117(a), files its Reply in Support of its Motion to Suspend the present cancellation pending final determination of a civil action having a bearing on the case.

In Opposition to the Motion to Suspend, Braztech makes two arguments: (1) that Registrant is attempting to “avoid” its deposition by suspension; and (2) that there are not “overlapping” issues between the Federal Lawsuit and the present Cancellation proceeding. Both of these arguments are fatally flawed.

First, Braztech argues that Registrant is attempting to “avoid” deposition through the pending Motion. This contention is simply incorrect. Registrant corresponded with

Braztech regarding rescheduling the deposition in light of the pending Motion. When Braztech insisted on proceeding with discovery, however, Registrant consented to be deposed as scheduled.

Second, Braztech argues that there are no “overlapping” issues between the Federal Lawsuit and the present Cancellation. This contention is unfounded. The Federal Lawsuit and the present Cancellation involve the same parties and the same Mark. This fact alone shows that the Lawsuit “bears on” the present proceeding sufficiently to satisfy the liberal standard employed by Trademark Rule 2.117(a). Further, both the Federal Lawsuit and the present Cancellation proceeding involve, fundamentally, Braztech’s right to use the Mark over Registrant’s objection. The mere fact that the Federal Lawsuit is at a preliminary stage, and Braztech has not yet answered, does not alter the necessity of overlap between the two proceedings. The fact that Braztech brought the present Cancellation proceeding *as a response to* the Federal Lawsuit is, on its own, strongly suggestive that *even Braztech* believes that the Lawsuit “bears on” the present proceeding.

Accordingly, Registrant asks that the present proceeding be suspended pending final determination of the Federal Lawsuit specified in Registrant’s Motion to Suspend.

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**CERTIFICATE OF SERVICE**

I hereby certify that I have this 20th day of June, 2011, served a copy of the foregoing via electronic mail, properly addressed, to:

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